

Economic Sanctions and the Former Yugoslavia: Current Status and Policy Considerations Through 1996

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Abstract

This report reviews the comprehensive economic sanctions regime imposed against the Federal Republic of Yugoslavia/Serbia-Montenegro for its role in the war in neighboring Bosnia-Herzegovina from 1992 to 1995. It gives detailed descriptions of the form, date, and status of U.S. sanctions that implemented U.N. Security Council resolutions mandating sanctions. It reviews how most of the sanctions were lifted in the year after the Bosnian war ended, though some additional sanctions were maintained. It also discusses how policymakers may consider reimposition of sanctions in order to achieve objectives regarding the peace process in Bosnia and democratic development in Serbia-Montenegro. This report will not be updated. Other CRS Reports related to this subject include: *Bosnia-Former Yugoslavia and U.S. Policy*, IB 91089; *Kosovo and U.S. Policy*, 96-790 F; *Serbia-Montenegro: Basic Facts*, 95-901 F; and CRS Report 97-949, *Economic Sanctions to Achieve U.S. Foreign Policy Goals: Discussion and Guide to Current Law*.

Summary

In November and December 1996, hundreds of thousands of demonstrators in Serbia-Montenegro (Federal Republic of Yugoslavia-FRY) rallied daily in the capital in protest of attempts by the Serbian government under President Slobodan Milosevic to annul the electoral victories of the opposition in the municipal elections. Some international policymakers have threatened the Serbian leadership with sanctions should it resort to violent means of quelling the protests. In Bosnia, violations, of lack of satisfactory compliance with, aspects of the Dayton Peace Agreement have periodically prompted calls for the re-imposition of sanctions against the offending parties. In particular, extremely limited progress has been evident in the return of refugees to their homes or the turning over of indicted war criminals to the international tribunal.

During the course of the Bosnian war from 1992 to 1995, an extensive sanctions regime was constructed by the international community primarily against Serbia-Montenegro for its role in the Bosnian conflict. The United States imposed several implementing measures in compliance with the U.N. sanctions. After conclusion of the Dayton Peace Agreement in November 1995, the U.N. Security Council suspended sanctions. Sanctions were terminated in October 1996, after Bosnia held its first national elections.

Since Dayton, the United States has maintained a unilateral policy of upholding a so-called “outer wall” of sanctions against Serbia-Montenegro that holds full diplomatic relations and U.S. economic benefits, as well as U.S. support of FRY membership in international organizations or of economic assistance from international financial institutions. These limited sanctions are to remain until the FRY demonstrates further progress in cooperation with the war crimes tribunal and with respect to the situation in Kosovo. In December 1996, in response to the political crisis in Serbia, the State Department emphasized that this policy would remain in place until the Serbian leadership reversed its anti-democratic practices.

At the end of 1996, the sanctions debate was focused on two related but distinguishable policy objectives: to respond to and possibly affect the internal political crisis in Serbia-Montenegro; and, to press for greater compliance with aspects of the peace accord in Bosnia. For the first objective, policymakers were able to consider various forms of sanctions in order to support democratic movements in Serbia-Montenegro and to condemn the repressive government under Slobodan Milosevic. For the latter objective, economic sanctions that had been in place would have been difficult to restore. Rather, the international community or individual countries used international reconstruction aid as an economic lever to influence compliance with the peace process in Bosnia.

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Overview

Sanctions are often viewed as a useful policy tool where a military response would not be feasible or appropriate. Since late 1995, the threat of sanctions has frequently been invoked by the international community as a means to pressure the Bosnian parties, especially the Bosnian Serbs, to comply with the terms of the Bosnian peace agreement. More recently, attempts by the Serbian leadership in Belgrade to manipulate the electoral process at home have prompted some calls for sanctions to be re-imposed against Serbia-Montenegro.

Beginning in 1992, the U.N. Security Council imposed a series of economic sanctions¹ against the Federal Republic of Yugoslavia (FRY)/Serbia-Montenegro (S-M), and later against the Bosnian Serbs in the Republika Srpska, for their respective roles in perpetrating the war in Bosnia and Herzegovina. The total package of sanctions against the FRY/Serbia-Montenegro was virtually comprehensive; once the sanctions were in place, international policy on sanctions focused on sanctions enforcement. Sanctions primarily targeted the FRY/Serbia-Montenegro, which financially and materially supported the Bosnian Serb armed forces, but which was not a direct party in the conflict.

As the war continued, the Serbian leadership under Slobodan Milosevic sought to play a “peacemaking” role in order to remove the burden of sanctions and the status of international pariah state. As part of the U.S.-led peace process concluded in Dayton, Ohio, almost all U.N. sanctions against the FRY/Serbia-Montenegro were suspended in late 1995, and sanctions against the Bosnian Serbs were suspended in early 1996. After Bosnia and Herzegovina held national elections in mid-September 1996, the Security Council terminated the economic sanctions in October 1996.

Some observers contend that economic sanctions could continue to serve a useful role for a variety of purposes. They argue that some form or threat of sanctions could foster greater compliance with aspects of the Bosnian peace agreement, such as cooperation with the international war crimes tribunal, assurance of freedom of movement, improved human rights practices, and participation in joint political institutions, among others. The Civilian Consolidation Plan for Bosnia agreed to in Paris in November 1996 referred to the possibility of renewed sanctions against any party that failed significantly to meet its obligations under the peace agreement.

Policymakers may also consider imposing sanctions in response to the civil unrest in Serbia-Montenegro. U.S. leaders have specified that limited sanctions against Serbia-Montenegro would remain in place until the Serbian leadership respected the political and civil rights of its people. Some policymakers have also threatened unspecified sanctions as a warning to the Serbian leadership not to resort to violent means of ending the demonstrations. However, the international sanctions regime that had been built up since 1992 has for all intents and purposes been dismantled. Re-imposition of the former U.N. sanctions would require passage of a new Security Council resolution. Alternatively, a new sanctions framework might be considered by U.S. policymakers for future policy.

¹ The arms embargo against all of the former Yugoslavia that had been imposed in 1991 is not addressed in this report.

U.S. Economic Sanctions²

The United Nations Security Council passed a Security Council Resolution 757 on May 30, 1992, requiring its members to impose economic and diplomatic sanctions against Yugoslavia.³ In 1991, prior to U.N. action, the Administration prohibited new Overseas Private Investment Corporation (OPIC) loan guarantees to U.S. business activities in Yugoslavia and suspended export licenses for defense materials and services.⁴ A policy of presumed denial continues today for export licensing of defense articles and defense services for FRY (S/M).⁵

To implement U.N. Security Council resolutions mandating sanctions,⁶ U.S. Presidents have issued five Executive orders (EO):

Description	Executive Order	Date	Status
Declaration of National Emergency The President declared FRY (S/M) a threat to U.S. national security, ⁷ and blocked all FRY (S/M) government property and interests in the jurisdiction of the United States.	12808 [57 FR 23299]	May 30, 1992	National emergency continued in effect through mid-May 1997. Block on most property suspended December 27, 1995. Property the ownership of which is disputed is still blocked.
Extensive Sanctions In issuing EO 12810, the President restated the blocking, initiated in EO 12808, of FRY (S/M) property in the United States' jurisdiction. The EO also prohibited: import or export to or from FRY (S/M); U.S. persons from importing from FRY (S/M) by way of a third country; transactions relating to U.S.-registered vessels or aircraft that travel to, from or through FRY (S/M); any aircraft from landing in, taking	12810 [57 FR 24347]	Jun 5, 1992	Suspended December 27, 1995. Property the ownership of which is disputed is still blocked.

² For further discussion, including sequence of events, Presidential authority, the Administration's implementation of sanctions, and penalties for violation, see *Serbia and Montenegro: U.S. Economic Sanctions*, by Dianne E. Rennack, CRS Report 93-954F, October 18, 1993.

³ The U.N. Security Council passed two earlier sanctions-related resolutions with respect to Yugoslavia and its successor states: S/Res/713 of September 25, 1991, imposed an international arms embargo against all of the former Yugoslavia after several attempts at ceasefire failed; and S/Res/724 of December 15, 1991, established the U.N. Sanctions Committee, initially formed to monitor compliance with the arms embargo.

⁴ In November 1990, the 101st Congress, with the President's signature on Public Law 101-513, also prohibited U.S. direct assistance to the former Yugoslavia in that fiscal year, effective May 5, 1991. The same law (Section 599A) required the Secretary of the Treasury to instruct U.S. executive directors of international financial institutions to oppose most financial assistance to the Federal Republic of Yugoslavia. The Secretary of State, however, certified on May 24, 1991, that Socialist FRY was meeting certain conditions and waived the prohibition on assistance and IFI support.

⁵ Restrictions on export licensing for defense articles and defense services was lifted for successor states of Yugoslavia other than FRY (S/M) by the State Department, effective July 12, 1996 (Department of State Public Notice 2410; 61 FR 36625). See 22 CFR 126.1.

⁶ Resolutions 757 (1992), 787 (1992), 820 (1993), 942 (1994), 943 (1994), 988 (1995), 992 (1995), 1003 (1995) and 1015 (1995).

⁷ The national emergency was renewed annually by presidential notice. The last notice was given on December 6, 1996.

Description	Executive Order	Date	Status
off from, or flying over the U.S. if the flight path has included FRY (S/M); U.S. persons from executing contracts in commerce, industry, public utilities, or contracts with the FRY (S/M) government; making any financial support available to the FRY (S/M) government or individuals there; transactions related to, or participation in, U.S. sports events where FRY (S/M) representatives are participating; U.S./FRY scientific and technical cooperation or cultural exchanges (other than participation at the U.N.).			
Prohibiting Transshipment The President prohibited transactions within the United States or by a U.S. person related to the transshipment of good and products through FRY (S/M).	12831 [58 FR 5253]	Jan 15, 1993	Suspended December 27, 1995.
Further Tightening The President imposed additional sanctions to conform with U.N. Security Council resolution S/RES/820, April 17, 1993. EO 12846: blocked access to any FRY (S/M) property, or interests in property, relating to commerce, industry, or public utility in the jurisdiction of the United States; charged the expenses of seizing, blocking, and maintaining property to its owners or operators; authorized full investigation of all vessels, freight vehicles, rolling stock, aircraft and cargo that are not under the U.S. blocking as imposed in earlier EO, but are suspected of violating U.N. Security Council resolutions 713, 757, 787, or 820; prohibited any U.S.-registered, or U.S.-owned or -controlled vessel--other than a U.S. naval vessel--from entering the territorial waters of FRY (S/M); prohibited import from, export to, and transshipment through Serb-controlled areas in Croatia and Bosnia and Herzegovina.	12846 [58 FR 25771]	Apr 25, 1993	Suspended December 27, 1995. Property the ownership of which is disputed is still blocked.
Expanded Measures Against the Bosnian Serb-Controlled Areas of Bosnia The President expanded the scope of the U.S. national security threat to include actions of the Bosnian Serb forces. EO 12934 blocked all property, and interests in property, of the Bosnian Serb military, paramilitary, any authority, entity or individual in Bosnian Serb-controlled territory that was in the jurisdiction of the United States. It also prohibited the provision or export of U.S. services to Bosnian Serb-controlled territory, and the use by U.S.-registered vessels (other than U.S. Navy) of Bosnian Serb-controlled ports.	12934 [57 FR 54117]	Oct 25, 1994	National emergency continued in effect through mid-May 1997. Block on most property suspended May 10, 1996. Property the ownership of which is disputed is still blocked.

In addition, Congress passed and the President signed legislation (P.L. 102-420) that withdrew most-favored-nation (MFN) trade status for products of Serbia-Montenegro in October 1992. This remains in force today. Terms that Serbia-Montenegro must meet for the President to renew MFN were based on political conditions in 1992, however, and have been overtaken by events.

The Administration maintains a so-called “outer wall” of sanctions against the FRY that withholds full diplomatic relations and U.S. economic benefits, as well as U.S. support of FRY membership in international organizations or of economic assistance from international financial institutions, until further progress is demonstrated in FRY cooperation with the war crimes tribunal and with respect to the situation in Kosovo.⁸ In Kosovo, Serbian authorities have continued to repress the ethnic Albanian majority population, which seeks independence from Serbia.⁹ The “outer wall” constitutes more of a unilateral U.S. policy than an international sanctions regime. No formal or informal international organization has adopted the “outer wall” as part of a multilateral strategy. This lack of formality is particularly important in regard to international financial institutions, where the United States, without other voting members’ concurrence, cannot block FRY from participating or receiving economic assistance.

Current Status of Sanctions

U.N. Security Council Resolution 1022 (November 22, 1995) suspended all sanctions against the FRY, with the exception of frozen or impounded Yugoslav assets the ownership of which is being disputed. Sanctions were to be finally terminated ten days after free and fair elections were held in Bosnia. Sanctions against the Bosnian Serbs were not to be suspended until the Bosnian Serb forces had withdrawn behind the zones of separation established in the peace agreement. NATO Secretary-General Javier Solana certified such a withdrawal on February 26, 1996, triggering the suspension the following day. Following the holding of “reasonably democratic”¹⁰ national and entity (Bosnian Federation and Republika Srpska) elections on September 14, 1996, the Security Council terminated the sanctions on October 1 (Resolution 1074).

Correspondingly, in December 1995, President Clinton directed the Secretary of the Treasury to suspend the application of most U.S. sanctions imposed on the FRY and the Bosnian Serbs, effective in January and May 1996, respectively. To do this, the President determined that waiving or modifying the sanctions codified by the National Defense Authorization Act, FY 1994¹¹ was necessary to achieve a negotiated settlement of the conflict in Bosnia-Herzegovina acceptable to all parties. In May 1996, however, President Clinton gave notice of a fourth year’s extension of the national emergency that had been declared in May 1992 and expanded in October 1994. He cited the still incomplete process of implementing the peace agreement and the unfulfilled terms of the U.N. suspension of sanctions. To date, President Clinton has not yet taken action to formally terminate sanctions in conformity with U.N. resolution 1074 of October 1, 1996, so that U.S. sanctions remain in suspension only.

⁸ As outlined by Assistant Secretary of State John Shattuck at a Hearing on Prospects for Peace with Justice in Bosnia. House Committee on International Relations. 104th Congress, Second Session. February 1, 1996.

⁹ For further background on the situation in Kosovo, see U.S. Library of Congress. Congressional Research Service. Kosovo and U.S. Policy, by Steven Woehrel. CRS Report 96-790F. September 26, 1996.

¹⁰ The elections were characterized as such by Organization for Security and Cooperation in Europe (OSCE) Bosnia mission chief Ambassador Robert Frowick.

¹¹ Section 1511 of Public Law 103-160 (50 U.S.C. 1701 note), popularly referred to as the “Levin amendment,” codified Executive Orders 12808, 12810, 12831, and 12846, the State Department’s 1991 public notice to suspend munitions export licenses (Public Notice 1427; July 11, 1991; 56 F.R. 33322), Department of Transportation/Federal Aviation Administration air travel prohibitions (DOT Order 92-5-38; May 20, 1992; and FAA action; June 19, 1992; Special Federal Aviation Regulation (SFAR) No. 66; RIN 2120-AE48, and subsequent issues); and the removal of Yugoslavia from the Generalized System of Preferences trade list (Presidential Proclamation 6389; December 5, 1991; 56 F.R. 64467).

Foreign assistance appropriations acts for fiscal years 1996 and 1997¹² reaffirmed the intent of the National Defense Authorization Act, FY 1994, requiring that the President certify to Congress that certain conditions have been met before sanctions against FRY (S/M) cease to be effective. The FY1997 Act pins certification on: substantial progress toward “the realization of a separate identity for Kosova and the right of the people of Kosova to govern themselves; or the creation of an international protectorate for Kosova”; substantial improvements in the human rights situation in Kosova, including access to the region for international observers; and the ability of the elected government of Kosova to meet and conduct business. The President may waive the requirement, however, to meet emergency humanitarian needs or “to achieve a negotiated settlement of the conflict in Bosnia and Herzegovina.”

Policy Considerations

International policymakers have frequently invoked the threat of economic sanctions in order to advance certain policy objectives in the former Yugoslavia. During the war, sanctions were imposed to bring pressure on Serbian President Milosevic to end the war, and were in part the reason he took on the role of peacemaker. In the current situation, U.S. and other western policymakers may maintain multiple policy objectives in the Balkans that are distinct but mutually interactive. International policy directed at affecting developments in Serbia-Montenegro or Croatia, for example, may affect developments in Bosnia as well. With regard to sanctions, at least two separate policy objectives can be identified: to respond to and possibly affect the recent internal political crisis in Serbia-Montenegro; and, to press for greater compliance with aspects of the peace accord in Bosnia.

Political unrest in Serbia-Montenegro erupted after the Serbian government partially overturned the results of the November 17 municipal elections, during which the opposition claimed victory over the ruling Socialists in numerous cities, including Belgrade. In response, tens of thousands of citizens took to the streets in daily protests. The State Department decried the Belgrade government’s anti-democratic measures and specified that the United States would maintain its limited sanctions against Serbia-Montenegro and would “reserve the right” to consider a re-imposition of sanctions.¹³ The State Department also called for European countries to impose measures similar to the U.S. “outer wall” of sanctions.

While the United States and other countries have demanded that the Serbian government respect the results of the municipal elections, the threat of restoring sanctions against Belgrade appears to be directed primarily at forestalling any violent suppression of the protests. At the London peace implementation conference in December, FRY Foreign Minister Milan Milutinovic pledged not to use force to end the rallies. Many analysts predict that the international community will not actively press for multilateral economic sanctions unless the situation on the streets turns violent. They point to Milosevic’s role as guarantor of the Bosnian peace process, his ability in the past to survive political challenges, and the lack of international consensus as yet on sanctions. Nevertheless, some individuals may call for some form of sanctions, or other measures, against Belgrade that would convey support for the democratic movement in Serbia-Montenegro and condemnation of the Serbian government’s anti-democratic policies.

¹² Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (sec. 540A of Public Law 104-107; 50 U.S.C. 1701 note); and Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (title I, sec. 101(c), title V, sec. 540 of Public Law 104-208; 50 U.S.C. 1701 note).

¹³ U.S. Department of State Daily Press Briefing, December 3-4, 1996.

An ongoing policy objective of the United States has been to promote implementation of the Bosnia peace agreement. Since the conclusion of the agreement one year ago, the threat of sanctions has often been raised by the international community in response to violations to or lack of progress in peace implementation. With the current situation regarding war criminals and refugee returns at a stalemate, one can expect that some individuals may again call for the imposition of sanctions in order to compel compliance by one or more of the Balkan parties. In particular, many observers have called for sanctions to be imposed on any party that does not cooperate with the Hague war crimes tribunal and facilitate the arrest and transfer of indicted war criminals.

In the first year after Dayton, the threat of restoring suspended sanctions (in effect from November 1995 until October 1996) may have enhanced President Milosevic's interest in moving forward with peace implementation. Current circumstances, however, raise some doubts as to the feasibility and likely effectiveness of future sanctions. The United Nations could re-impose sanctions only by approving a new Security Council resolution. Support among other Security Council member countries for restoring multilateral sanctions against Serbia-Montenegro with regard to the Bosnian peace process remains uncertain. Even if other European countries in the Security Council were eventually to support renewed economic sanctions, Russia would likely remain opposed. It would be easier for the President to order or for the Congress to legislate unilateral U.S. sanctions, but such measures would have lesser economic impact than multilateral sanctions.

Whom to target for possible future sanctions related to the Bosnian peace process is also a problematic issue. By most accounts, all of the interested parties, including neighboring Serbia-Montenegro and Croatia, remain out of compliance with one or another aspect of the peace agreement. Could sanctions feasibly be targeted on multiple parties? Even if sanctions were to be concentrated on the ostensibly worst offender, the Bosnian Serbs, the impact of such sanctions would be questionable, given that the Republika Srpska remains a sub-state entity that would be difficult to target within the greater Bosnia and Herzegovina.

Rather than sanctions, the international community appears to have settled on utilizing international reconstruction assistance as its primary economic lever. The Paris meeting of the Bosnia presidency in November 1996 specified a link between the availability of assistance from the international financial institutions and implementation by the Bosnian parties of the peace agreement. In December 1996, international leaders at the London conference emphasized that economic aid would be conditional on the political willingness of the Bosnian parties to implement the peace.¹⁴ Individual donor countries conceivably may exercise the prerogative of withholding funds for reconstruction aid or conditioning economic assistance on certain political goals.

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¹⁴ *The Washington Post*, December 5, 1996, p. A39.

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